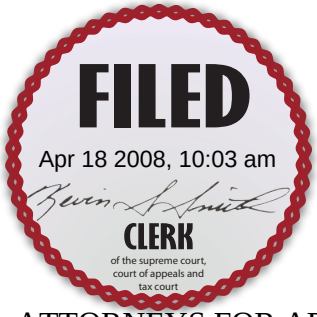

APPELLANT PRO SE:

REGINA A. WEBB
Campbellsburg, Indiana

ATTORNEYS FOR APPELLEE REVIEW BOARD OF THE INDIANA WORKFORCE DEVELOPMENT:

STEVE CARTER
Attorney General of Indiana

ELIZABETH ROGERS
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

REGINA WEBB, Appellant-Defendant,	)	
vs.	)	No. 93A02-0708-EX-743
REVIEW BOARD OF THE INDIANA WORKFORCE DEVELOPMENT and VETERANS OF FOREIGN WARS, Appellees-Plaintiffs.	)	

APPEAL FROM THE REVIEW BOARD OF THE DEPARTMENT OF WORKFORCE DEVELOPMENT
The Honorable Steven F. Bier, Chairperson
Cause No. 07-R-1660

April 18, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Regina Webb ("Webb") appeals the decision of the Review Board of the Indiana Department of Workforce Development ("the Board") with respect to her claim for unemployment benefits.[1] We restate the issue presented by Webb as whether the Board erred in concluding that she left her employment without good cause in connection with her work. We affirm.

Facts and Procedural History

Webb was apparently employed by GKN Sinter Metals earning approximately $16.50 per hour.[2] At some point, she lost this job and began to work at a VFW Canteen earning only $7.00 per hour. In March of 2007, Webb quit working at the VFW so that she could go to college full time and improve her grade point average.

On May 10, 2007, a claims deputy with the Indiana Department of Workforce Development determined that Webb had voluntarily quit her job at the VFW without good cause in connection with the work and was therefore not eligible for unemployment benefits. Webb filed an appeal from the deputy's decision on May 15, 2007. At a hearing held on June 11, 2007, an administrative law judge ("ALJ") affirmed the deputy's decision and suspended Webb's unemployment benefits until she earned "her

[1] Our resolution of this appeal has been hampered by Webb's presentation of the issues. We recognize that Webb is proceeding pro se, but this does not excuse her failure to follow the applicable appellate rules. See Smith v. Ind. Dep't of Correction, 871 N.E.2d 975, 986 (Ind. Ct. App. 2007), trans. denied. We further decline the State's request to dismiss Webb's appeal for failure to follow the applicable appellate rules and failure to make a cogent argument. Although we might be justified in so doing, we have endeavored to address the issues raised by Webb, as best as we can discern them.

[2] Although Webb makes this statement in her brief, it is supported by no citation to the record.

weekly benefit amount or greater" for eight weeks. Appellant's Br. p. 16.[3] Webb appealed this decision to the Board on June 19, 2007. On July 17, 2007, the Board affirmed the decision of the ALJ. On August 16, 2007, Webb then filed a motion to correct error with the review board. The Board denied Webb's motion to correct error on August 29, 2007. Webb now appeals.[4]

Discussion and Decision

Review of the Board's findings of basic fact are subject to a "substantial evidence" standard of review. McHugh v. Review Bd. of Ind. Dep't of Workforce Dev., 842 N.E.2d 436, 440 (Ind. Ct. App. 2006). In this analysis, we neither reweigh the evidence nor assess the credibility of witnesses and consider only the evidence most favorable to the Board's findings. Id. Reversal is warranted only if there is no substantial evidence to support the Board's findings. Id. The Board's determinations of ultimate facts involve an inference or deduction based upon the findings of basic fact that is typically reviewed to ensure that the Board's inference is reasonable. Id. Finally, we review conclusions of law to determine whether the Board correctly interpreted and applied the law. Id. (citing Parkison v. James River Corp., 659 N.E.2d 690, 692 (Ind. Ct. App. 1996)).

At issue before us is whether Webb voluntarily left her employment without good cause. An employee is disqualified from collecting unemployment compensation if she has left employment voluntarily "without good cause in connection with the work . . . ."

[3] Webb did not file a separate appendix as required by our appellate rules. See Ind. Appellate Rule 49 (2008). Instead, she attached some of the relevant materials at the end of her appellant's brief.

[4] Webb actually filed her notice of appeal before she filed the motion to correct error. The Board denied her motion to correct error before this court assumed jurisdiction.

Ind. Code § 22-4-15-1(a) (2005). The question of whether an employee voluntarily terminated employment without good cause is a question of fact to be decided by the Board. M & J Mgmt., Inc. v. Review Bd. of Dep't of Workforce Dev., 711 N.E.2d 58, 62 (Ind. Ct. App. 1999). The burden of establishing that the voluntary termination of employment was for good cause rests with the employee. Id. Specifically, the employee must show that: (1) the reasons for leaving employment were such as to impel a reasonably prudent person to terminate employment under the same or similar circumstances; and (2) the reasons are objectively related to the employment. Id. The latter component requires the employee show that her reasons for terminating employment are job-related and objective in nature, excluding reasons which are personal and subjective. Id.

Here, the ALJ found that Webb left her employment so that she could attend school full time and improve her grade point average. Webb does not deny this. Although we applaud Webb for her efforts to further her education and improve her grades, this does not make the decision of the ALJ erroneous.

The brunt of Webb's appellate argument, however, seems to be directed towards her contention that the Board ignored the fact that she was in an approved training program and that, under applicable federal law, her unemployment benefits cannot be terminated. The federal law Webb refers to is the Trade Act of 1974 ("the Trade Act"). The Trade Act established a program to provide trade readjustment allowance ("TRA") benefits to qualified workers who have lost their jobs due to foreign competition. Sanders v. Review Bd. of the Ind. Employment Security Div., 514 N.E.2d 654, 656 (Ind.

Ct. App. 1987). The Trade Act created a program of trade adjustment assistance ("TAA") to assist those who became unemployed as a result of increased imports to return to suitable employment. 20 C.F.R. § 617.2 (1986). To qualify for TAA, individuals must satisfy group and individual worker eligibility requirements. Sanders, 514 N.E.2d at 656. The Secretary of Labor then certifies that a group of workers is engaged in employment adversely affected by imported products and eligible to apply for TRA benefits. Individual workers within the group must then meet certain standards to qualify to receive such benefits. Id.

Webb specifically cites 20 C.F.R. § 617.18, which states in relevant part:

> (b) Disqualification of trainees—(1) State law inapplicable. A State law shall not be applied to disqualify an individual from either [unemployment insurance] or TRA because the individual:
>
> * * *
>
> (iii) Quits work, if the individual was employed in work which was not suitable (as defined in Sec. 317.22(a)(1)), and it was reasonable and necessary for the individual to quit work to begin or continue training approved for the individual under Sec. 617.22(a).

Section 617.22(a)(1)(i) of the 20 C.F.R. states in relevant part:

> For the purposes of paragraph (a)(1) of this section only, the term 'suitable employment' means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less that 80 percent of the worker's average weekly wage.

Thus, Webb claims that her employment at the VFW was not "suitable" because she earned less than 80% of her wage at GKN Sinter Metals. Because she claims that her employment at the VFW was not "suitable," Webb asserts that her act of voluntarily

quitting cannot result in her being denied unemployment benefits under 20 C.F.R. § 617.18(b). We are unable to agree.

First, as noted by the State, Webb did prove that her college education qualified as TAA-approved training.[5] Even assuming that her college training is TAA approved, Webb further fails to explain how her quitting the VFW was "reasonable and necessary" for her to quit work to begin or continue such training. As the ALJ found, Webb quit so that she could attend full time and improve her grades from Bs to As. Again, while this is admirable, Webb does not explain how her quitting was reasonable *and* necessary to continue her college education.[6]

In short, Webb does not explain how federal regulations prevent the termination of her unemployment benefits, nor did she support this claim with any evidence presented to the ALJ. Further, the Board's decision that Webb quit her job without good cause is not erroneous.

Affirmed.

FRIEDLANDER, J., and ROBB, J., concur.

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[5] Webb has attached to her reply brief documents which she claims establishes that her college education qualifies as an approved program. It does not appear, and Webb does not even claim, that she presented this evidence to the ALJ. Webb cannot now submit evidence which was not submitted to the ALJ.

[6] Curiously, the Board claims, although admittedly based upon evidence not in the record before us, that Webb was approved for TAA training starting on May 21, 2007. The Board therefore claims that, had Webb quit the VFW after that date, she might well be protected from termination of her unemployment benefits. Because she quit on March 31, 2007, however, the Board argues that Webb "prematurely" quit work at the VFW. Because no evidence of this is in the record before us, we cannot review this claim.